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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,788	11/20/2003	William P. Reiter	301.00020101	8585

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MUETING, RAASCH & GEBHARDT, P.A.
P.O. BOX 581415
MINNEAPOLIS, MN 55458

EXAMINER

SZUMNY, JONATHON A

ART UNIT PAPER NUMBER

3632

DATE MAILED: 03/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/717,788

Applicant(s)

REITER, WILLIAM P.

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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SECOND

3/11/05

This is the first office action for application number 10/717,788, Waste Container Stabilizer, filed on November 20, 2003.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

Claim 15 is withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention. See the previous office action.

Claim Objections

Claims 3, 9 and 14 are objected to because of the following informalities:

In claims 3 and 14, line 5, it appears "support" should be --support ring--;

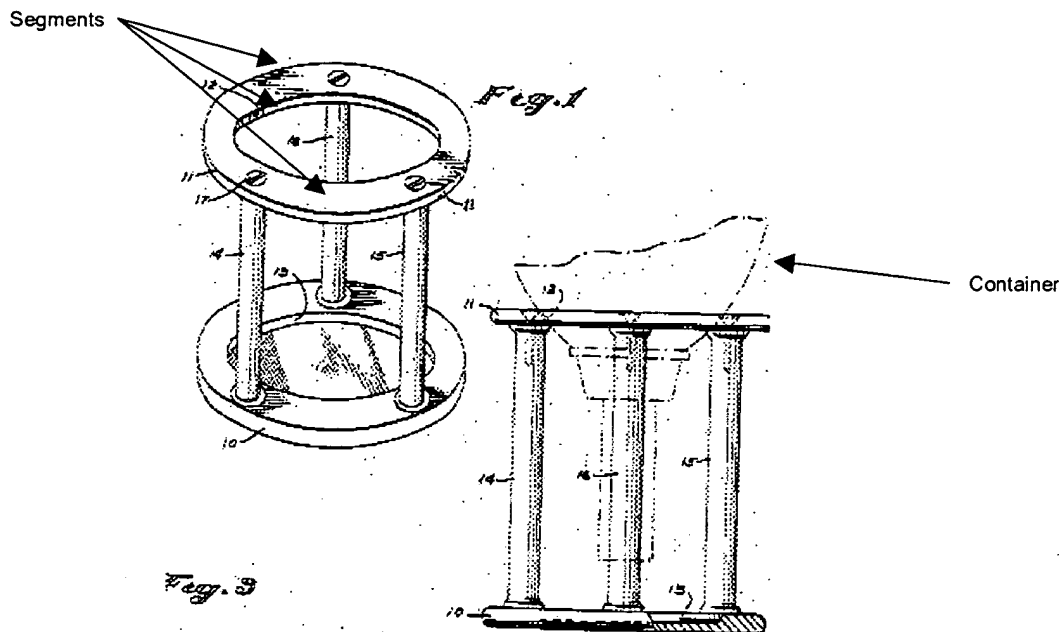
In claim 9, line 4, it appears "support" should be --support ring--.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

Claims 1-14 and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 2,780,081 to Alexander in view of U.S. Patent number 3,648,659 to Jones.

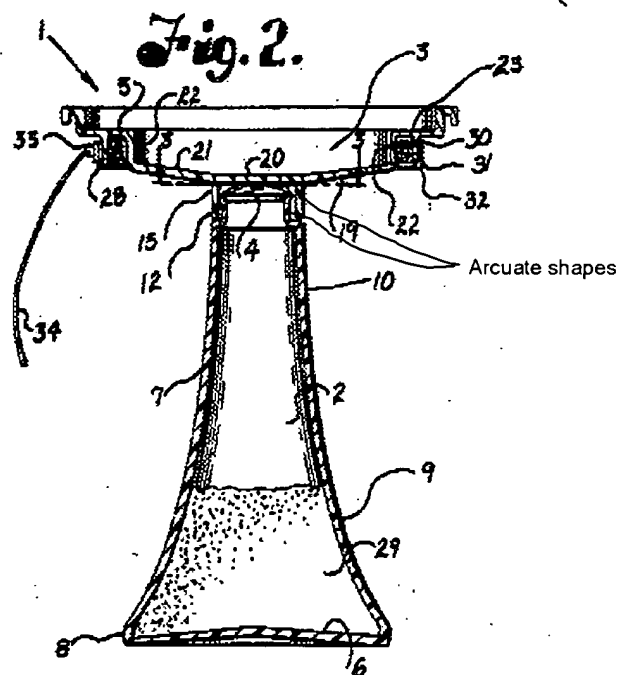
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Alexander '081 discloses a stabilizer (above) comprising a support ring (11), and a plurality of legs (14,15,16), wherein the support ring comprises a segmented support ring comprising a plurality of segments (above), wherein a container (above) is sized to fit within the support ring when the stabilizer assembly and the container are supported on a surface, wherein rotation of the legs relative to the support is prevented when the leg is attached to the support ring (inherently, such as when the legs are rotated about an axis different than that of the axis of the leg).

However, Alexander '081 fails to specifically teach at least two of the legs to each comprise a hollow ballast compartment with an opening filled with a ballast selected from sand, gravel, water, metal shot, concrete and combinations of two or more thereof, and fails to specifically teach the opening into the compartment to be covered by the support ring when the legs are attached to the support ring, and fails to specifically teach each of the legs to comprise a top surface comprising an arcuate shape complementary to the support ring such that the top

surface of each of the legs mates with a bottom surface of the support ring when attached thereto.



Nevertheless, Jones '659 teaches the concept of filling a leg (2, above) with ballast such as sand or gravel (column 3, line 11) via an opening (near 4) on the top of the leg, such that when the leg is attached to a support ring (3), the opening is covered, wherein each of the legs comprises a top surface comprising an arcuate shape (above, doesn't necessarily appear arcuate in above figure only because it is a sectional view) complementary to the support ring such that the top surface of each of the legs mates with a bottom surface of the support ring when attached thereto (see figure 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified at least two of the legs of the stabilizer of Alexander '081 so as to each have a hollow ballast compartment filled with a ballast as in Jones '659 so as to provide for a more stable stabilizer. Further, it would have been obvious to have constructed an opening

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into the ballast compartment on the top of each leg such that each compartment is covered by the support ring when the legs are attached to the support ring as in Jones '659 so as to provide for a more aesthetically pleasing stabilizer by concealing the openings. Also, it would have been obvious to have used sand or gravel as the ballast as in Jones '659 since such are well known materials in the art for use as ballast materials. Finally, it would have been obvious to have constructed the top surface of each of the legs of Alexander '081 to comprise an arcuate shape complementary to the support ring as in Jones '659 such that the top surface of each of the legs mates with a bottom surface of the support ring when attached thereto so as to facilitate attachment of the legs to the ring while providing for a removable but sturdy attachment means.

Regarding claims 16-20, Alexander '081 in view of Jones '659 inherently teach the method of manufacturing a stabilizer apparatus comprising forming the ring and the legs, wherein the ballast compartment is inherently filled with ballast before the legs are attached to the ring.

Response to Arguments

Applicant's arguments filed January 19, 2005 have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-14 and 16-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

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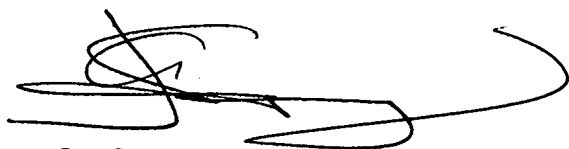
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The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is

(703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a large, sweeping flourish extending to the right.

Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
March 11, 2005